

Biosecurity Bill 2013

Purpose of the Bill

The *Biosecurity Bill 2013* delivers a single, cohesive legislative framework with proportionate powers and the flexibility to respond in a timely and effective way to emergency events and ongoing animal and plant diseases and pests. It will also manage risks of biological, chemical and physical contaminants associated with carriers such as livestock, plants, machinery, animal feed and fertilisers.

General Obligations

The Bill imposes a universal biosecurity obligation on all persons which requires them to take an active role in minimising biosecurity risks.

The Bill also establishes obligations in relation to prohibited and restricted matter, the identification and movement of animals that may need to be traced, notification of incidents and feeding of animal matter:

- **Prohibited matter** is not found in Queensland but could have serious impacts if it entered the State. If found it must be reported and the risks must not be exacerbated.
- **Restricted matter** needs to be managed when it is found and therefore they are allocated specific categories (1-7) that require specific types of action such as its immediate destruction or non movement.
- **Notifiable incidents**, such as abnormalities in plants and animals, must be reported to an inspector and no action must be taken that could exacerbate the biosecurity risk.
- The Bill generally continues to **prohibit feeding animal matter** to certain animals as this can spread diseases such as mad cow disease.

Places where livestock are kept must be registered and specified animals fitted with approved devices to allow traceability as it is critical to safeguarding Queensland's livestock industries.

Emergency Biosecurity Event Management

The Bill provides for swift, but time-limited, action to manage emergency biosecurity events where serious or irreversible damage is possible, but the scientific knowledge is incomplete. Unlike current legislation, it does not require the identification and scheduling of specifically identified pests and diseases before action can be taken.

An inspector has powers under the Bill to enter a place without a warrant or the occupier's consent and take necessary and reasonable steps to mitigate the risk posed by a biosecurity matter if it poses an immediate and significant risk. In this case the inspector must notify the chief executive officer after invoking the power and it can apply only for 96 hours.

The Bill allows for the Chief Executive to issue a **Biosecurity Emergency Order** if an emergency response is necessary to isolate the biosecurity emergency area, to stop the spread of any biosecurity matter associated with the biosecurity event and, if practicable, to eradicate the biosecurity matter. The Biosecurity Order stays in force for 21 days, unless revoked.

The Bill also allows the Chief Executive to make a **Movement Control Order**, restricting the movement of biosecurity matter or the carriers of biosecurity matter for up to three months.

During emergencies both Queensland Police officers and Queensland Transport authorised officers may be issued with powers to stop or direct vehicles.

Ongoing biosecurity risk management

The Bill will provide comprehensive, new regulatory instruments and associated powers, including **biosecurity zones** and **biosecurity programs** that can be tailored to meet the unique nature and the tactical challenges of addressing ongoing specific biosecurity risks. These regulatory instruments and powers will provide enhanced capability and flexibility for frontline resources, enable more cost effective responses and reduce burdens for stakeholders.

A regulation may establish the whole or part of the State as a **biosecurity zone** (for example in relation to fire ants or cattle ticks) and include arrangements for managing, reducing or eradicating pests, diseases or other regulated biosecurity matter inside or outside the zone.

The chief executive may declare a particular place to be a **restricted place** because contaminants at the place could pose a biosecurity risk in the future. For example, the potential exists for plants grown on contaminated land to become contaminated and thereafter enter the food chain.

The Bill empowers the State and local governments to authorise **surveillance programs** to determine the extent or absence of biosecurity matter and **prevention and control programs** to manage, control or eradicate biosecurity matter.

An Authorised Officer will have the power to give a person a **biosecurity order** where the person has not met their statutory obligation with respect to biosecurity matter that requires the person to take action to remove or reduce a biosecurity risk, or prevent a biosecurity risk from occurring or recurring.

The chief executive or the chief executive of a local government may apply to a court for an **injunction** restraining a person from doing something or requiring a person to do something so as to stop contravening a requirement of the Bill.

Local Government obligations

The main biosecurity function of each local government will continue to be to ensure the management of invasive plants and animals in their area and they will be provided with tools under the Bill to achieve that including 'Prevention and Control' or 'Surveillance' programs. Additional regulatory tools such as codes of practice, guidelines and biosecurity zones will also support local government's compliance activities.

Biosecurity plans may be developed and resourced jointly by two or more local governments where there are similar invasive biosecurity matter issues across jurisdictions. These efforts will support the activities of the State and pest barrier fences boards which are funded by the Land Protection Fund which will be continued under the Bill.

Agreements

The chief executive may enter into arrangements with entities for the purpose of advancing an objective of the Act. These entities include Local, State or Commonwealth Government and industry bodies. Agreements may include arrangements for how a particular biosecurity event will be managed, how impacted persons will be compensated and how the costs will be shared.

The Bill provides for the issue of a **Biosecurity Certificate** under which a person may be taken to comply with, or may be exempted from, particular requirements of the Bill or of a corresponding interstate law about prohibited or restricted matter or about biosecurity matter.

Under the Bill a person can enter into a **Compliance Agreement** with the Chief Executive. The principal benefit of a Compliance Agreement is that a business can streamline processes and commence or finalise processes without needing an inspection.

Limitations on the exercise of powers and protections for individual rights

The Bill will enhance the transparency, integrity and community confidence in Queensland's biosecurity systems by providing a range of limitations on the exercise of powers and protections of individuals' rights including through the defence of due diligence, internal and external reviews and appeals, the tabling of reports about a biosecurity emergency in the Legislative Assembly, providing and publishing documents, mandatory consultation processes and compensation provisions.

The Bill's consistency with fundamental legislative provisions is addressed in detail in the Explanatory Notes.

Regulations, codes of practice and guidelines

The Bill provides for regulations to be made about a range of issues including prohibited matter, restricted matter, acceptable levels of contaminants and notifiable incidents, entity registration, animal identification and tracing, movement records, particular biosecurity zones, local government responsibilities, land protection fund payments and barrier fence building authorities, compliance agreements, accredited certifiers, auditors and auditing, inspectors and authorised persons, permits, fees, compensation and standards.

Under the Bill, Codes of Practice may be made that are voluntary or compulsory. Not complying with a Compulsory Code of Practice is a breach of the General Biosecurity Obligation and so can be enforced. Voluntary Codes of Practice need not be complied with if an alternative means achieves the same or better management and control of Biosecurity Risks. Codes of Practice need to be maintained and regularly updated to reflect industry current best practice. All amendments to Codes of Practice need to be negotiated with industry.

Under the Bill the chief executive may make guidelines about administration of the Act, including the operation of monitoring and enforcement of the provisions of the Act, ways to discharge the General Biosecurity Obligation, ways to comply with requirements about Restricted Matter or complying with other requirements under the Act. Unlike Codes of Practice, a person will not be presumed to have failed to discharge the person's general biosecurity obligation because the person has failed to follow a guideline.